LIBRARY
SUPREME COURT, U. S.

Supreme Court, U. S.
FILED
MAR 6 1974
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-1196

STATE OF MARYLAND COMMISSION ON HUMAN RELATIONS AND WILLIAM L. FERGUSON,
Petitioners,

v.

UNITED PARCEL SERVICE,
Respondent.

TO THE COURT OF APPEALS OF MARYLAND

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

ROBERT B. BARNHOUSE,
2000 First Maryland Building,
25 South Charles Street,
Baltimore, Maryland 21201,

BERNARD G. SEGAL,
1719 Packard Building,
Philadelphia, Pennsylvania 19102
Counsel for Respondent.

Of Counsel:

PIPER & MARBURY,
SCHNADER, HARRISON, SEGAL
& LEWIS.

The Daily Record Co., Baltimore, Md. 21203

Table of Contents

	PAGE
Opinions Below	1
Jurisdiction	1
Question Presented	2
Statutes and Constitutional Provisions Involved	2
Statement	2
Argument	5
1. The Commission was not a party to the proceedings below	5
2. The judgment below was based on adequate and independent state grounds	8
Conclusion	14
Appendix:	
A. Excerpt from Article 49B, §14 Md. Code Ann.	A-1
B. Senate of Maryland Bill No. 549	B-1
C. Excerpt from Title 28, U.S.C. § 1257	C-1

Table of Citations

Cases

Albert v. Public Service Commission, 209 Md. 27, 120 A.2d 346 (1956)	8
Bayard v. Lombard, 9 How. 530, 13 L. Ed. 245 (1850)	7
Board of Zoning Appeals for the Town of Elkton v. Guns, 259 Md. 368, 269 A.2d 833 (1970)	7
Bouse v. Hutzler, 180 Md. 682, 26 A.2d 767 (1942)	12
Connecticut Commission on Human Rights and Opportunities v. Veeder-Root Company, A Division of Veeder Industries, ... Conn. ....., ... A.2d ....., 6 EPD §8958 (1973), United States Supreme Court, October Term, 1973, No. 73-703, cert. den. February 19, 1974, ... L.W.	14
County Treasurer v. State Tax Commission, 219 Md. 652, 150 A.2d 452 (1959)	12

PAGE

Fay v. Noia, 372 U.S. 391, 9 L. Ed. 2d 837, 83 S. Ct. 822 (1963) 12, 13

Fox Film Corporation v. Muller, 296 U.S. 207, 80 L. Ed. 158, 56 S. Ct. 183 (1935) 12

Henry v. Mississippi, 379 U.S. 443, 13 L. Ed. 2d 408, 85 S. Ct. 564, reh. den. 380 U.S. 926, 13 L. Ed. 2d 813, 85 S. Ct. 878 (1965) 13

Johnstown Coal & Coke Company v. Dishong, 198 Md. 467, 84 A.2d 847 (1951) 8

Mace Produce Company v. States Attorney, 251 Md. 503, 248 A.2d 346 (1968) 7

Miles v. McKinney, 174 Md. 551, 199 A.2d 540 (1936) 7

National Association for the Advancement of Colored People v. Alabama, 357 U.S. 449, 2 L. Ed. 2d 1488, 78 S. Ct. 1163 (1958) 12

Rogan v. Baltimore & Ohio Railroad Company, 188 Md. 44, 52 A.2d 261 (1947) 12

Subsequent Injury Fund v. Pack, 250 Md. 306, 242 A.2d 506 (1966) 7

United States ex rel. Louisiana v. Jack, 244 U.S. 397, 61 L. Ed. 1222, 37 S. Ct. 605 (1917) 6-7

Wm. Bagaley, The v. United States, 5 Wall. 377, 18 L. Ed. 583 (1867) 6

Statutes

Title 18, U.S.C. § 1257 ..... 2, 7

Title 41, U.S.C. §2000e-2 ..... 10-11, 13

Article 49B, §1 *et seq.*, Maryland Code (Anno.) 3-6, 9

Senate Bill No. 549, proposing amendments to Art. 49B, §15, Md. Code Ann. 6

Secondary Materials

Annotation: Right of Public Officer or Board to Appeal From A Judicial Decision Affecting Him or Its Order or Decision, 117 A.L.R. 216 7

Davis, Administrative Law §804 (1st Ed., 1958, Supplement, 1970) 8

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-1196

STATE OF MARYLAND COMMISSION ON HUMAN RELATIONS AND WILLIAM L. FERGUSON,

Petitioners,

v.

UNITED PARCEL SERVICE,

Respondent.

TO THE COURT OF APPEALS OF MARYLAND

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

For the reasons set forth below, Respondent opposes the issuance of the Writ of Certiorari requested by the Petitioners.

OPINIONS BELOW

All of the opinions below are attached to the Petition as appendices.

JURISDICTION

The judgment of the Court of Appeals of Maryland was entered on November 6, 1973. This Court lacks jurisdiction to review by Writ of Certiorari the judgment entered by the

Court of Appeals of Maryland because the State of Maryland Commission on Human Relations ("Commission") was not a party below, thereby precluding it from seeking review of the judgment below, and because the judgment below was based on adequate and independent state grounds.

QUESTIONS PRESENTED

Whether this Court should exercise jurisdiction to grant a Writ of Certiorari where the state agency petitioning for the writ was not a party to the proceedings below and where the judgment of the highest court of the State of Maryland was based on adequate and independent state grounds.

STATUTORY AND CONSTITUTIONAL PROVISIONS

In addition to the statutory provisions set forth in the Petition there is also involved in this case Senate of Maryland Bill No. 549 and Title 18, U.S.C. §1257. They are set forth in Appendix B and C, *infra* respectively.

STATEMENT OF THE CASE

On March 30, 1970, William Ferguson ("Ferguson") filed a complaint with the Commission alleging that he was denied employment on March 16, 1970, by United Parcel Service ("UPS"), solely on the basis of his race. In a statement of Written Findings and Conclusions, dated October 30, 1970, the Commission investigator assigned to investigate Ferguson's complaint stated that there was probable cause to believe that the complainant was discriminated against as he had alleged. When subsequent good faith efforts by UPS and the Commission to resolve the complaint failed, a public hearing before a Hearing Tribunal composed of five members of the Commission was held on January 24 and 31, 1972.

At the hearing, testimony was taken from witnesses produced by both parties. On March 3, 1972, a decision was certified to the full Commission by the Hearing Tribunal

Chairman. The Tribunal's decision and recommendations were approved and adopted by the entire Commission by its order of March 8, 1972. * (Petition Appendix A.) Briefly stated, the recommendations adopted by the Commission's order required UPS to discontinue using certain questions on its employment application forms and to pay Ferguson $150 in back wages.

An order for appeal to the Circuit Court for Prince George's County, Maryland, was filed by UPS on April 3, 1972. On May 9, 1973, the circuit court passed an Order reversing the Order of the Commission. The circuit court's decision was based upon the failure of the Commission to follow the proper procedures required of it by statute. The Commission's findings with respect to the alleged racially exclusionary effect of the UPS employment criteria in effect when Ferguson applied for employment were neither disturbed nor affirmed; they were not considered. Despite the erroneous suggestion to the contrary in the Petition, the circuit court made no findings that any racially discriminatory practices existed at UPS.

The circuit court found that the notice given UPS was inadequate to support the remedial order which went far beyond the scope of the complaint which UPS had been called upon to answer at the public hearing before the Commission which resulted in the order. Ferguson's complaint before the Commission was an individual complaint, alleging racial discrimination only against himself; it was filed under the provisions of §12(a) of Md. Code Ann., Art. 49B, ("the Act"). (Petition Appendix F, p. F. 1.) The court held that, if the Commission's investigation of the Ferguson complaint led it to think it proper to seek relief of a broader nature than that permitted by the narrow scope of Ferguson's in-

* Except where the distinction may be of some importance the Tribunal shall henceforth be referred to as the Commission.

dividual, specific complaint, then it could and should have filed its own broader complaint under the provisions intended for that specific purpose in §12(b) of the Act. Such a broader complaint could then have satisfied the notice requirements of the Act and formed the basis for a broader public hearing and relief. The Commission did not become a party and did not file a §12(b) complaint.

With respect to the back pay portion of the order, the circuit court held that there was "no evidence to support the award of one week's pay." (Petition Appendix C, p. C. 3.)

Following a denial of a motion for reconsideration, Ferguson appealed to the Court of Appeals of Maryland. The action of the lower court was affirmed by the Court of Appeals on November 6, 1973. In affirming the lower court's action, the Court of Appeals did not reach or decide any issues which were not decided by the lower court. The Court of Appeals specifically declined to reach the question as to whether the employment criteria utilized by UPS during the period when Ferguson applied for employment were racially discriminatory or not job-related.

With respect to the back pay issue, the Court of Appeals affirmed the lower court's reversal of the award of back pay in the Commission's order. The Court of Appeals noted that the Commission had found that:

> [T]here [was] no evidence that Ferguson was not hired because of particular individual discrimination against him because of his race. (Petition Appendix D, p. D. 2 & 3.)

The Petitioners' assertion to the contrary is incorrect.

THIS COURT LACKS JURISDICTION TO REVIEW BY CERTIORARI THE JUDGMENT ENTERED BELOW.

1. *The petitioner Commission was not a party to the proceedings below.*

The complaint which was the foundation of the hearing and the order was the complaint of Ferguson alone. (Petition Appendix B, p. B. 2 & 3.) The Commission was not a party to the complaint. The "Notice of Public Hearing" issued by the Commission clearly stated that the hearing was in connection with Ferguson's complaint and the "Written Findings and Conclusions" prepared in connection therewith. (Petition Appendix B, p. B. 1.) Between the date the complaint was filed by Ferguson on March 30, 1970, and the date of the hearings, the Commission did not seek to amend the complaint to make itself a party as permitted by §14(c) of the Act. (Opposition Brief Appendix A, *infra*, p. A. 1.) Perhaps more significantly, the Commission did not file a complaint in its own name and in its own right as it could have done under §12(b) of the Act. (Petition Appendix F, p. F. 2.) Although the complainant's case was presented at the hearing by the general counsel of the Commission, as required by §14(a) of the Act, such required representation of the complaint can in no way be considered as tantamount to making the Commission a party. The Commission was not made a party at any time during the hearing. Indeed, the Commission did not even request that it become a party or be treated as a party.

The appeal which followed the Commission's order was taken by UPS. While the Commission identified itself on the pleadings in the circuit court as an "Appellee", the Commission was not a party to the appeal, and it was not treated as a party either by the circuit court or by UPS. The Commission's general counsel, of course, continued his representa-

tion of Ferguson, whose award of back pay was being challenged by UPS. As clearly noted in both the circuit court's opinion (Petition Appendix C, pp. C. 4-6) and the Court of Appeals opinion (Petition Appendix D, p. B.5), the Commission could and should have become a party when the case was still before the Commission. However, as indicated, it did not.

The statutory provisions creating and governing the Commission do not vest the Commission with the status of a party in proceedings before it. Indeed, it is only when the Commission is considering a §12(b) complaint that the statute authorizes the Commission to be a party in proceedings before it. (Petition Appendix F, p. F. 6.) In the instant case, the Commission was dealing with a §12(a) complaint, not a §12(b) complaint. In addition, there is no statutory provision which permits the Commission to become an interested party subsequent to a circuit court reversal of a Commission order.

It should be noted that, on February 8, 1974, there was introduced in the Senate of Maryland a departmental bill to amend the statute relating to the Commission. The bill, Senate Bill No. 549, provides, in part:

> If a respondent [in this case UPS] is the aggrieved party seeking . . . judicial review, then the Commission shall have the status of an interested party in all matters, including appeals, and may participate, represented by its general counsel, in all litigation arising thereunder. (Opposition Brief Appendix B, *infra*, p. B. 1.)

The introduction of such a bill clearly suggests that the party in appeals arising from §12(a) complaints.

Not having been a party in any of the proceedings below, the Commission may not seek a writ of certiorari from this Court. *The Wm. Bagaley v. United States*, 5 Wall. 377, 18 L. Ed. 583 (1867); *United States ex rel. Louisiana v. Jack*,

244 U.S. 397, 61 L. Ed. 1222, 37 S. Ct. 605 (1917); *Bayard v. Lombard*, 9 How. 530, 13 L. Ed. 245 (1850). The fact that the Commission is a state agency does not *ipso facto* give it the right to appeal from a court decision regarding a Commission order when the Commission is not a party to the proceedings. *Miles v. McKinney*, 174 Md. 551, 199 A. 540 (1936); *Board of Zoning Appeals for the Town of Elkton v. Guns, et al.*, 259 Md. 368, 269 A.2d 833 (1970); see also *Annotation: Right Of Public Officer Or Board To Appeal From A Judicial Decision Affecting Him Or Its Order Or Decision*, 117 A.L.R. 216. The right to take an appeal is entirely statutory and no agency may prosecute an appeal unless the right is given by statute. *Subsequent Injury Fund v. Pack*, 250 Md. 306, 242 A.2d 506 (1966); see also *Mace Produce v. States Attorney*, 251 Md. 503, 248 A.2d 346 (1968). The Commission has been given no such authority.

Since the Commission was not a party below and cannot be a party here, its sole function in this Court is that of representing Ferguson, the complainant. The only issue which was decided below with respect to Ferguson about which he could complain was the disallowance of the Commission's award of back pay. That issue was not raised in the Petition and, in any event, the issue may not be considered here since the disallowance of the award of back pay in no way questioned the validity of a treaty or statute of the United States or questioned the validity of a state statute on the grounds of its being repugnant to the Constitution, treaties or laws of the United States.

The statutory requirements of Title 28, U.S.C. §1257 permitting this Court to exercise jurisdiction by certiorari over state court judgments have not been satisfied. (Opposition Brief Appendix C, *infra*, p. C. 1.)

2. *The judgment below was based on independent and adequate state grounds.*

The main issue before the Court of Appeals, and now before this Court, is a rather narrow question of the sufficiency of notice in an administrative proceeding. Simply stated, the question is whether the Commission went beyond its power in issuing its order as to the general hiring practices of UPS, in view of the narrow individual complaint which was the notice given UPS and which formed the basis of the public hearing. The circuit court ruled that the Commission proceeded unlawfully in issuing that portion of its order and the Court of Appeals affirmed that ruling.

One of the basic requirements of due process in an administrative proceeding of a judicial or quasi judicial nature, such as the present case, is that a respondent be given fair and adequate notice of the complaint to which an answer must be given and a defense made. *Albert v. Public Service Commission*, 209 Md. 27, 160 A.2d 346 (1956). See also, *Johnstown Coal and Coke Company v. Dishong*, 198 Md. 467, 84 A.2d 847 (1951); 1 Davis, Administrative Law, §804.

In the instant case, Ferguson filed a complaint alleging discrimination against him for race or color involving hiring. (Petition Appendix B, pp. B. 2 & 3.) Analysis of the complaint clearly discloses that Ferguson complained of alleged discrimination which occurred on March 16, 1970. At most, this would pertain to the alleged treatment afforded him from December 1969, when he first applied, through March 1970, when he was last interviewed. Ferguson complained only of alleged discrimination against him; he made no complaint or charge of discrimination by UPS in its general hiring practices. He made no charges whatsoever relating to any period of time other than the period of December 1969 to March 1970.

This complaint was investigated by the Commission's staff and the results of the investigation were embodied in Written Findings and Conclusions dated October 30, 1970. When conciliation efforts failed, the file was certified and the respondent UPS was notified on December 16, 1971 of a public hearing on Ferguson's complaint. Although over a year had elapsed between the time of the completion of the Commission's investigation and the notice of public hearing, the Commission made no effort to amend the complaint to include UPS' general hiring practices or any other period of time, or to initiate a Commission sponsored complaint under §12(b) of the Act.

Following the public hearing on Ferguson's individual complaint, the Commission issued its order. In its order, the Commission found, with regard to Ferguson's individual complaint:

> There is no evidence that Ferguson was not hired because of particular individual discrimination against him because of his race. Indeed, the record shows that UPS has taken a number of steps to train its personnel in some aspects of human relations, and to discourage individual discrimination. (Petition Appendix A, p. A. 7.)

After having found this, the Commission proceeded to go beyond the scope of the complaint and issue an order requiring UPS to revamp its general hiring practices. The circuit court and the Court of Appeals correctly held that the Commission's attempt to issue such an order was invalid because the Commission lacked the power to expand the ambit of its orders beyond those appropriate to the redress of the grievances asserted by the complaint upon which the public hearing was based. The circuit court even suggested to the Commission a simple method of proceeding which would be proper under the Act:

> If inquiry develops the existence of objectionable practices generally engaged in, and a broader sweep is

> sought, the course is simple: Let the Commission file an additional complaint under §12(b) which procedure appears to be precisely what was meant to be permitted by this subsection. (Petition Appendix C, p. C. 6.)

The same point was made by the Court of Appeals:

> As the lower court pointed out, §12(b) of the Act provides the mechanism which the Commission should have used, once it determined to broaden the scope of the inquiry — the issuance of a complaint on its own motion and in its own name, which would have given United Parcel the notice to which it was entitled. (Petition Appendix D, p. D. 5.)

It is not disputed that the Commission's order would have been within the scope of remedial powers available to the Commission had the Commission filed a §12(b) complaint and persuaded a majority of the tribunal members that the evidence supported the complaint. Nothing in the opinions of the circuit court or the Court of Appeals suggests that the Commission lacks the statutory authority to pass an order similar to the one passed in the instant case. The lowers courts have simply made it clear that the Commission is bound by the procedural requirements of the statute governing its operation.

It should be noted that proceedings under the Maryland Act are substantially different from proceedings under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-2, as amended ("Title VII"). Both Title VII and the Maryland Act start with a complaint, proceed through investigation, and attempt to reach agreement, through conciliation; however, at this point, the similarity ceases. Under Title VII, if an agreement is not reached by conciliation, the next step is the filing of a suit in the appropriate federal court, since there is no provision for a hearing before the EEOC; under the

Maryland Act, the next step after failure of agreement is a public hearing before the Commission. The suit filed in the federal court under Title VII proceeds as any other suit under the Federal Rules of Civil Procedure providing for pleading, discovery, limiting of the issues, pretrial conferences, etc.; a public hearing before the Commission under the Maryland Act proceeds without such pleadings, discovery and definition of issues.

Because of this fundamental difference between Title VII and the Maryland Act, the cases cited by the Commission on the subject of an expansive interpretation of the complaint under Title VII are inapplicable to proceedings before the Commission under the Maryland Act. The federal cases deal with the question of how far the suit filed in the federal court may go beyond the charge initially made at the start of the EEOC investigation. The present case involves no such question since the Maryland procedure is quite different from the procedure under Title VII.

It is clear from reading §12(b) of the Maryland Act that the legislature intended to provide respondents with certain safeguards within the Commission's procedures if charges are made relating to company-wide practices. The need for such safeguards is clear. Unlike the situation where a single individual complaint is involved, a respondent confronted with a §12(b) complaint may have to defend, at public hearing, employment or hiring practices which may affect many or all employees. In addition, of course, any remedial action which the Commission may order could extend into many areas of the respondent's employment practices. The safeguards of §12(b) insure that before a respondent is put to the substantial expense of a public hearing to defend its employment practices, and is exposed to the possibility of sweeping Commission ordered changes in its employment practices, there has been approval of the complaint by at least four

commissioners. While this procedure offers no guarantee that baseless complaints will not be served on employers, it does provide reasonable means by which the sufficiency of a company-wide complaint can be considered before service on an employer. In essence, the legislature has determined that the greater scope of the investigation permitted by a complaint and the greater the scope of an order responding thereto, the greater the need for insuring that the complaint be well grounded before a public hearing is ordered.

In summary, the language of the Act relating to complaints is clear and unambiguous. The Act sets forth the specific way in which an individual complaint under §12(a) may be expanded or amended; further, §12(b) provides for a company-wide complaint. With the language of the Act so clear regarding the matter of complaints, that language controls. There is no need for an examination of the history of the Civil Rights Act or other extraneous matters. *Bouse v. Hutzler*, 180 Md. 682, 26 A.2d 767 (1942); *Rogan v. Baltimore & Ohio Railroad Company*, 188 Md. 44, 52 A.2d 261 (1947). In essence, the Commission is attempting to nullify the provisions of the Act which serve to give an employer fair notice of the complaint to which an answer must be made and a defense presented. This, the Court of Appeals held, the Commission may not do. *Rogan v. Baltimore & Ohio Railroad Company, supra; County Treasurer v. State Tax Commission*, 219 Md. 652, 150 A.2d 452 (1959).

It is well settled that this Court will not review state judgments which rest on independent and adequate state grounds, even if federal grounds are also present. *Fay v. Noia*, 372 U.S. 391, 9 L. Ed. 2d 837, 83 S. Ct. 822 (1963); *National Association for the Advancement of Colored People v. Alabama*, 357 U.S. 449, 2 L. Ed. 2d 1488, 78 S. Ct. 1163 (1958); *Fox Film Corporation v. Muller*, 296 U.S. 207, 80 L. Ed. 158, 56 S. Ct. 183 (1935). It is also well settled that this

policy applies where the independent and adequate state grounds are procedural rather than substantive. *Fay v. Noia, supra; Henry v. Mississippi*, 379 U.S. 443, 13 L. Ed. 2d 408, 85 S. Ct. 564, reh. den. 380 U.S. 926, 13 L. Ed. 2d 813, 85 S. Ct. 878 (1965).

The Petition argues that the Court of Appeals has created a "strict notice standard" and that it has "inconsistently applied its own administrative notice standard to the Commission and, in effect, fashioned a novel and unfair procedural requirement for this case." (Petition, p. 4.) This argument contains an implicit, unsupported assertion that this Court may properly review the judgment of the highest court of a state with respect to that court's view of the state law regarding the adequacy of notice in a state administrative proceedings. More importantly, it is unclear how a state court holding that a state agency must comply with the state *statutory* provisions regarding the giving of adequate notice is either novel or unfair.

Significantly, the Petition in no way indicates how requiring the Commission to utilize the §12(b) complaint would interfere with the enforcement of the Act or how the realization of the objectives of the Act (and Title VII) would be frustrated by the use of a §12(b) complaint. Indirectly, the Petition argues that, if the judgment of the Court of Appeals is left undisturbed, "each member of the class discriminated against [would have] to individually seek relief. Such a result would substantially increase the case load of both federal and state courts." (Petition, pp. 21-22.) The §12(b) complaint eliminates the need for numerous individual actions, thus preventing the feared backlog. A §12(b) complaint permits the Commission to vindicate in one proceeding, the rights of all aggrieved persons employed by one employer.

CONCLUSION

In a very recent case involving the same question of the scope of an order issued by a state "civil rights" agency in response to a single complaint, this Court declined to review a state court judgment that the scope of the complaint limits the scope of any order which may result therefrom. *Connecticut Commission on Human Rights and Opportunities v. Veeder-Root Company, A Division of Veeder Industries,* ... Conn. ....., ... A.2d ....., 6 EPD §8958 (1973), United States Supreme Court, October Term, 1973, No. 73-703, *cert. den.* February 19, 1974, ..., ... L.W. .....

This Court lacks jurisdiction to review by Writ of Certiorari the judgment entered by the Court of Appeals of Maryland because the Commission was not a party below, thereby precluding it from seeking review of the judgment below, and because the judgment below was based on adequate and independent state grounds. Therefore, UPS submits that the petition should be denied.

ROBERT B. BARNHOUSE,
BERNARD G. SEGAL,
Counsel for Respondent.

Of Counsel:

PIPER & MARBURY.
SCHNADER, HARRISON, SEGAL & LEWIS.

APPENDIX A

Excerpts from Article 49B, Md. Code Ann.

* * * * * *

§ 14. Hearing.

* * * * * *

(c) *Amendment of complaint or answer; testimony to be under oath and recorded.* — The Commission may permit reasonable amendment to be made to any complaint or answer. Testimony taken at the hearing shall be under oath and recorded.

APPENDIX B

SENATE OF MARYLAND

No. 549

By: Senator Curran (Departmental)

Introduced and read first time: February 8, 1974.

Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Human Relations Commission — Enforcement and Judicial Review

FOR the purpose of establishing certain limitations upon the applicability of the judicial review standards of the Administrative Procedure Act to orders of the Human Relations Commission; granting the Commission the status of an interested party in matters relating to the review of its orders; and generally relating to the enforcement and judicial review of orders of the Human Relations Commission.

BY repealing and re-enacting, with amendments,
Article 49B — Human Relations Commission
Section 15
Annotated Code of Maryland
(1972 Replacement Volume and 1973 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section 15 of Article 49B — Human Relations Commission, of the Annotated Code of Maryland (1972 Replacement Volume and 1973 Supplement) be and it is hereby repealed and re-enacted, with amendments, to read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.

Article 49B — Human Relations Commission

15.

* * * * * *

(B) ANY PARTY AGGRIEVED BY A FINAL ORDER OF THE COMMISSION, EXCEPT AN ORDER ENTERED BY THE COMMISSION PURSUANT TO § 13(C) ABOVE, MAY SEEK JUDICIAL REVIEW THEREOF PURSUANT TO THE APPROPRIATE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT. IF A RESPONDENT IS THE AGGRIEVED PARTY SEEKING THIS JUDICIAL REVIEW, THEN THE COMMISSION SHALL HAVE THE STATUS OF AN INTERESTED PARTY IN ALL MATTERS, INCLUDING APPEALS, AND MAY PARTICIPATE, REPRESENTED BY ITS GENERAL COUNSEL, IN ALL LITIGATION ARISING THEREUNDER. IF AN AGGRIEVED PARTY FAILS TO SEEK JUDICIAL REVIEW WITHIN THE TIME PRESCRIBED BY APPLICABLE STATUTE OR RULE OF PROCEDURE, THE STANDARDS OF JUDICIAL REVIEW AVAILABLE UNDER THE ADMINISTRATIVE PROCEDURE ACT WILL NOT APPLY TO ANY ENFORCEMENT ACTION INSTITUTED BY THE COMMISSION PURSUANT TO SUBSECTION (A) HEREOF.

* * * * * *

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1974

APPENDIX C

Excerpt from Title 28, U.S.C. § 1257.

§ 1257. State courts; appeal; certiorari

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follow:

* * * * * *

(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitutions, treaties or statutes of, or commission held or authority exercised under, the United States:

* * * * * *